IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 527 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHETAN SHANKERLAL PATEL

Versus

STATE OF GUJARAT

Appearance:

MR JM BUDDHBHATTI for Petitioner

MR SP DAVE APP for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 20/04/2001

ORAL JUDGEMENT

1. The petitioner - original accused in Sessions Case No. 211/2000 has preferred this Revision Application under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, challenging the

order dated 1.12.2000 recorded by the learned Sessions Judge, Court No. 1, City Sessions Court, Ahmedabad, under which, the learned Judge dismissed an application of the present petitioner for transfer of the aforesaid sessions case from the Court of the learned Additional Sessions Judge (presided over by Mr. Z.K. Saiyed) to the Court of any other Additional Sessions Judge of that Court.

2. It seems that petitioner had preferred an application before the learned Sessions Judge, City Sessions Court at Ahmedabad stating that the petitioner had one earlier sessions case No. 337/95 conducted by Mr. Z.K. Saiyed, learned Additional Sessions Judge of that Court and by judgement and order dated 12.7.1996, the learned Judge had convicted the petitioner in the said case.

3. The petitioner has shown his apprehension that the said learned Additional Sessions Judge had convicted him in the aforesaid case No. 337/95 and therefore, it is likely that he would convict him in sessions case No. 211/2000 also. Therefore, he preferred an application before the learned Sessions Judge, City Sessions Court at Ahmedabad with a request to transfer sessions case No. 211/2000 from the court of Mr. Z.K. Saiyed, learned Additional Sessions Judge of that Court to any other court for trial according to law.

4. Learned Sessions Judge while dismissing the said application of the petitioner found that since the petitioner was convicted in one offence by one Additional Sessions Judge of that Court, it would not mean that the said Sessions Judge would convict the present petitioner in another case also. Therefore, the learned Sessions Judge found that the apprehension was not well founded and therefore, he did not agree with the said contention and dismissed the said application of the petitioner for transfer of the said Sessions case from the Court of Mr. Z.K. Saiyed, learned Additional Sessions Judge of that Court.

5. Feeling aggrieved by the said order of the learned Sessions Judge, City Sessions Court at Ahmedabad, the petitioner has preferred with revision application and the same contention has been raised in this revision. I have heard the learned advocate for the petitioner and Mr. S.P. Dave, learned APP for the respondent - State of Gujarat. I have also perused the papers.

6. Now, it is very clear that merely because learned

Additional Sessions Judge Mr. Z.K. Saiyed has convicted the present petitioner in Sessions Case No. 337/95 on 12.7.1996, it cannot be inferred that the said learned Additional Sessions Judge will convict the present petitioner in a subsequent sessions case No. 211/2000. The said sessions case will have to be disposed of on evidence and on merits and the evidence is to be scrutinised by the learned additional sessions judge of that Court and on the basis of the evidence placed before him, he will pass an appropriate order. Therefore, the aforesaid apprehension is not well founded and there is no reason to differ from the view adopted by the learned Sessions Judge.

7. Therefore, there is no merit in the present Criminal Revision Application and therefore, it deserve to be dismissed.

8. The Criminal Revision Application is accordingly dismissed. Notice is discharged.

(D. P. Buch, J.)

pallav